

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

LISA L. COWLEY-DAVIS and  
JONATHAN H. DAVIS,  
Plaintiffs,

v.

NATIONAL CREDIT ADJUSTERS,  
LLC, et al.,  
Defendants.

C.A. No. 22-292 Erie

District Judge Susan Paradise Baxter  
Magistrate Judge Richard A. Lanzillo

**MEMORANDUM ORDER**

Plaintiffs Lisa L. Cowley-Davis (“Ms. Davis”) and Jonathan H. Davis (“Mr. Davis”) initiated this action in the Court of Common Pleas of Erie County, Pennsylvania, by filing a *pro se* complaint against Defendants National Credit Adjusters, LLC (“NCA”), CBM Services Inc. (“CBM”), Stafford Group Associates (“Stafford”), and Starmark Financial LLC (“Starmark”).<sup>1</sup> The action was subsequently removed to this Court pursuant to a Notice of Removal dated October 10, 2022. [ECF No. 1]. This matter was referred to Chief United States Magistrate Judge Richard A. Lanzillo for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

Upon review of the docket, Judge Lanzillo noted that Defendant Starmark was never properly served by Plaintiffs. Consequently, Judge Lanzillo issued an order on June 1, 2023, ordering Plaintiffs to effectuate service upon Defendant Starmark on or before June 16, 2023. [ECF No. 34]. This Order warned that Plaintiffs’ failure to comply would result in dismissal of

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<sup>1</sup>  
Defendants CBM and Stafford have since been terminated from this case [ECF Nos. 17, 26].

Defendant Starmark for failure to serve pursuant to Fed. R. Civ. P. 4(m). When Plaintiffs failed to comply with this Order, Judge Lanzillo issued a show cause order on October 11, 2023, again advising Plaintiffs that their continued failure to submit service papers would result in dismissal of Defendant Starmark. [ECF No. 38]. After Plaintiffs failed to respond to this show cause order, Judge Lanzillo issued Plaintiffs a final show cause order on November 16, 2023, that again warned them of Defendant Starmark's possible dismissal if Plaintiffs failed to respond by November 30, 2023. [ECF No. 39]. Once again, Plaintiffs failed to comply and Defendant Starmark remains unserved.

As a result, on December 20, 2023, Judge Lanzillo issued a Magistrate Judge's Report and Recommendation ("R&R") recommending that Plaintiffs' claims against Defendant Starmark be dismissed without prejudice and that Defendant Starmark be terminated from this action [ECF No. 40]. No timely objections to the R&R have been filed.

Thus, after *de novo* review of the complaint and documents in this case, together with the report and recommendation, the following order is entered:

AND NOW, this 22nd day of January, 2024;

IT IS HEREBY ORDERED that all of Plaintiffs' claims against Defendant Starmark are DISMISSED, without prejudice, for Plaintiffs' failure to properly serve said Defendant in accordance with Rule 4(m) of the Federal Rules of Civil Procedure, and the Clerk is directed to terminate Defendant Starmark from this case. The report and recommendation of Chief Magistrate Judge Lanzillo, issued December 20, 2023 [ECF No. 40], is adopted as the opinion of

the court.

  
SUSAN PARADISE BAXTER  
United States District Judge

cc: The Honorable Richard A. Lanzillo  
Chief U.S. Magistrate Judge

all parties of record